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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,979	01/13/2004	Richard John Gann	7267-1	3714

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EXAMINER	
REDMAN, JERRY E	
ART UNIT	**PAPER NUMBER**
3634	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/756,979	GANN, RICHARD JOHN	
	Examiner	Art Unit	
	Jerry Redman	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) *9-13* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4/12/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 9-13, drawn to a method of opening a window, classified in class 49, subclass 506.

II. Claims 1-8 and 14, drawn to a hung window, classified in class 49, subclass 123.

The inventions are distinct, each from the other because:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation such as a hung window including an upper and lower sash mounted within a frame which closes an opening within the frame and interconnected via a cable and the second mode of operation is a method of opening and closing an upper and lower window sash.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Johnson on 7/20/2005 a provisional election was made with traverse to prosecute the invention of Group II, claims 1-8 and 14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-13 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The applicant's information disclosure statement dated 4/12/2004 has been considered and a copy has been placed in the file.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7, 8, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dupuis et al. ('765). Dupuis et al. ('765) disclose a hung window comprising a frame (WF), an upper sash (22 or 26) mounted in the frame (WF) and slidable therein, a lower sash (20 or 24), mounted in the frame (WF) and slidable therein, a pair of horizontally spaced pulleys (32, 34 or 30, 36) mounted in the frame (WF) (column 5, lines 45-50, mounts pulleys on both sides of the window frame), and a cable (60 or 62) having a first end connected to the upper sash (22 or 26) and a second end connected to the lower sash (20 or 24) (column 4, lines 5-25) whereby the weights of the sashes (column 5, lines 65-68 and column 6, lines 1-5) allows one to move either sash and the opposite sash moves/travels the same distance.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupuis et al. ('765) in view of Nagel ('681). All of the elements of the same invention are discussed in detail above except providing a support and a means to adjust the length of the cable. Nagel ('681) discloses a window assembly having a cable (42) connected to a bottom portion of an upper and lower sash via a support (38 and 38) and further having an adjusting means (41). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Dupuis et al. ('765) with a support and an adjusting means as taught by Nagel ('681) since a support and adjusting means allows one to fix the cable to the sash and the adjusting means allows one to adjust the length of the cable such that the window is properly fit within the opening of a frame.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Dahlstrom discloses a pulley system similar to that of the applicant's invention. U.S. patent to Robards discloses a window assembly similar to that of the applicant's invention. U.S. patent to Evans discloses a window assembly having pulleys and connections similar to that of the applicant's invention. U.S. patent to Dallaire discloses a pulley and window assembly similar to that of the applicant's invention. U.S. patent to Cloutier et al. disclose a window pulley system similar to that of the applicant's invention. Great Britain patent to Gamble discloses a window pulley system similar to that of the applicant's invention. U.S. patent to Morris discloses a window assembly having a support and an adjustable means similar to that of the applicant's invention.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.

Jerry Redman
Primary Examiner